

demand immediate action. DOE shall consult with CEQ as soon as possible regarding alternative arrangements for emergency actions having significant environmental impacts. DOE shall document, including publishing a notice in the FEDERAL REGISTER, emergency actions covered by this paragraph within 30 days after such action occurs; this documentation shall identify any adverse impacts from the actions taken, further mitigation necessary, and any NEPA documents that may be required.

(b) *Reduction of time periods.* On a case-by-case basis, DOE may reduce time periods established in this part that are not required by the CEQ Regulations. If DOE determines that such reduction is necessary, DOE shall publish a notice in the FEDERAL REGISTER specifying the revised time periods and the rationale for the reduction.

(c) *Other.* Any variance from the requirements of this part, other than as provided by paragraphs (a) and (b) of this section, must be soundly based on the interests of national security or the public health, safety, or welfare and must have the advance written approval of the Secretary; however, the Secretary is not authorized to waive or grant a variance from any requirement of the CEQ Regulations (except as provided for in those regulations). If the Secretary determines that a variance from the requirements of this part is within his/her authority to grant and is necessary, DOE shall publish a notice in the FEDERAL REGISTER specifying the variance granted and the reasons.

Subpart D—Typical Classes of Actions

§ 1021.400 Level of NEPA review.

(a) This subpart identifies DOE actions that normally:

(1) Do not require preparation of either an EIS or an EA (are categorically excluded from preparation of either document) (appendices A and B to this subpart D);

(2) Require preparation of an EA, but not necessarily an EIS (appendix C to this subpart D); or

(3) Require preparation of an EIS (appendix D to this subpart D).

(b) Any completed, valid NEPA review does not have to be repeated, and no completed NEPA documents need to be redone by reasons of these regulations, except as provided in § 1021.314.

(c) If a DOE proposal is encompassed within a class of actions listed in the appendices to this subpart D, DOE shall proceed with the level of NEPA review indicated for that class of actions, unless there are extraordinary circumstances related to the specific proposal that may affect the significance of the environmental effects of the proposal.

(d) If a DOE proposal is not encompassed within the classes of actions listed in the appendices to this subpart D, or if there are extraordinary circumstances related to the proposal that may affect the significance of the environmental effects of the proposal, DOE shall either:

(1) Prepare an EA and, on the basis of that EA, determine whether to prepare an EIS or a FONSI; or

(2) Prepare an EIS and ROD.

§ 1021.410 Application of categorical exclusions (classes of actions that normally do not require EAs or EISs).

(a) The actions listed in appendices A and B to this subpart D are classes of actions that DOE has determined do not individually or cumulatively have a significant effect on the human environment (categorical exclusions).

(b) To find that a proposal is categorically excluded, DOE shall determine the following:

(1) The proposal fits within a class of actions that is listed in appendix A or B to this subpart D;

(2) There are no extraordinary circumstances related to the proposal that may affect the significance of the environmental effects of the proposal. Extraordinary circumstances are unique situations presented by specific proposals, such as scientific controversy about the environmental effects of the proposal; uncertain effects or effects involving unique or unknown risks; or unresolved conflicts concerning alternate uses of available resources within the meaning of section 102(2)(E) of NEPA; and

(3) The proposal is not “connected” (40 CFR 1508.25(a)(1)) to other actions with potentially significant impacts, is not related to other proposed actions with cumulatively significant impacts (40 CFR 1508.25(a)(2)), and is not precluded by 40 CFR 1506.1 or §1021.211 of this part.

(c) All categorical exclusions may be applied by any organizational element of DOE. The sectional divisions in appendix B to this subpart D are solely for purposes of organization of that appendix and are not intended to be limiting.

(d) A class of actions includes activities foreseeably necessary to proposals encompassed within the class of actions (such as associated transportation activities and award of implementing grants and contracts).

APPENDIX A TO SUBPART D OF PART 1021—CATEGORICAL EXCLUSIONS APPLICABLE TO GENERAL AGENCY ACTIONS

Table of Contents

- A1. Routine administrative/financial/personnel actions
- A2. Contract interpretations/amendments/modifications, clarifying or administrative
- A3. Certain actions by Office of Hearings and Appeals
- A4. Interpretations/rulings for existing regulations
- A5. Rulemaking (interpreting/amending), no change in environmental effect
- A6. Rulemakings, procedural
- A7. Transfer of property, use unchanged
- A8. Award of contracts for technical support/management and operation/personal services
- A9. Information gathering/data analysis/document preparation/dissemination
- A10. Reports or recommendations on non-DOE legislation
- A11. Technical advice and assistance to organizations
- A12. Emergency preparedness planning
- A13. Procedural Orders, Notices, and guidelines
- A14. Approval of technical exchange arrangements
- A15. Umbrella agreements for cooperation in energy research and development

A1 Routine actions necessary to support the normal conduct of agency business, such as administrative, financial, and personnel actions.

A2 Contract interpretations, amendments, and modifications that are clarifying or administrative in nature.

A3 Adjustments, exceptions, exemptions, appeals, and stays, modifications, or rescissions of orders issued by the Office of Hearings and Appeals.

A4 Interpretations and rulings with respect to existing regulations, or modifications or rescissions of such interpretations and rulings.

A5 Rulemaking interpreting or amending an existing rule or regulation that does not change the environmental effect of the rule or regulation being amended.

A6 Rulemakings that are strictly procedural, such as rulemaking (under 48 CFR part 9) establishing procedures for technical and pricing proposals and establishing contract clauses and contracting practices for the purchase of goods and services, and rulemaking (under 10 CFR part 600) establishing application and review procedures for, and administration, audit, and closeout of, grants and cooperative agreements.

A7 Transfer, lease, disposition, or acquisition of interests in personal property (e.g., equipment and materials) or real property (e.g., permanent structures and land), if property use is to remain unchanged; i.e., the type and magnitude of impacts would remain essentially the same.

A8 Award of contracts for technical support services, management and operation of a government-owned facility, and personal services.

A9 Information gathering (including, but not limited to, literature surveys, inventories, audits), data analysis (including computer modelling), document preparation (such as conceptual design or feasibility studies, analytical energy supply and demand studies), and dissemination (including, but not limited to, document mailings, publication, and distribution; and classroom training and informational programs), but not including site characterization or environmental monitoring. (Also see B3.1.)

A10 Reports or recommendations on legislation or rulemaking that is not proposed by DOE.

A11 Technical advice and planning assistance to international, national, state, and local organizations.

A12 Emergency preparedness planning activities, including the designation of onsite evacuation routes.

A13 Administrative, organizational, or procedural Orders, Notices, and guidelines.

A14 Approval of technical exchange arrangements for information, data, or personnel with other countries or international organizations, including, but not limited to, assistance in identifying and analyzing another country’s energy resources, needs and options.